IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 100 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRABHAI L.SHAH

Versus

THE ARVIND MILLS EMPLOYEES CO.OP.

Appearance:

MR KV SHELAT for Petitioner

MR SHALIN N MEHTA for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 22/02/2001

ORAL JUDGEMENT

Mahendrabhai L. Shah, petitioner (original complainant) has filed this revision application challenging the order dated 17.10.1998 passed by the learned Metropolitan Magistrate, Court No. 3, Ahmedabad wherein he has discharged respondent No. 3, Hasmukh A.

Desai.

2. The facts of this case are as under:

2.1 Mahendrabhai L. Shah, petitioner, was serving as Clerk with respondent No. 1, The Arvind Mills Employees Co-op. Credit Society Ltd. since last 33 years. It has been averred in the petition that the brother of the complainant happens to be a businessman who had certain business relations with the Arvind Mills Ltd. According to the information of the complainant, the Mill Company has to pay an amount of Rs. 33,000/- to him and the Company had an intention not to pay the said amount to the brother of the complainant. It was further stated that on 21.5.1994 the complainant was called by Hasmukhbhai A. Desai at about 10.30 a.m. and was illegally detained him upto 6.45 p.m. and at that time S/Shri Nair, Hasmukh A. Desai, Dhruv Trivedi, Ganesh Sharman and Krishnan, under threats and mental torture, compelled the petitioner to give resignation from the services and the petitioner was relieved from the services with immediate effect from 21.5.1994. In view of the same, the petitioner (complainant) filed Criminal Case No. 294 of 1995 on 27.3.1995 under Section 384, 506(1) and 114 of I.P.C. before the learned Metropolitan Magistrate's Court at Ahmedabad which was treated as warrant triable case.

2.2 It was further stated that in that case petitioner's evidence was recorded. In that he has only stated that accused No. 3 has accepted the petitioner's resignation. Now the incident happened on 21.5.1994 whereas complained was filed on 27.3.1995. In that case evidence was recorded in March 1996 in which he has stated that accused No. 3 has accepted petitioner's resignation. It was also stated in the evidence that after the resignation, accused No. 3 directed that whatever amount the petitioner has to obtain by way of Provident Fund, he should collect from the office of the Society. Except these allegations, no other allegation has been made by the complainant-petitioner against accused No. 3.

3. The learned Magistrate by his order dated 17.10.1998 was pleased to consider the case of the complainant in the complaint Exh. 10, written submissions, oral deposition of complainant. He has also gone through the record. He noted that in his oral deposition the complainant has not made any allegation against accused No. 3. In view of the same, the complaint was rejected as regards accused No. 3 and he

was acquitted.

4. I have gone through the copy of the complaint, deposition of the complainant and I fully agree with the learned Magistrate that the complainant has not made out any case in respect of accused No. 3. In view of the same, the revision application is rejected. Rule is discharged. No order as to costs.

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